

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 06019**, a text amendment to Title 27 of the Lincoln Municipal Code, requested by the Director of Planning, at the request of the City Law Department, by amending Section 27.61.090 relating to Continuation of Nonstandard Uses, and Section 27.63.280 relating to Special Permits; Expansion of Nonconforming Uses, to allow for the enlargement, extension, or reconstruction of buildings and structures located upon a premises, the use of which constitutes a nonstandard use by special permit; and repealing Sections 27.61.090 and 27.63.208 of the Lincoln Municipal Code as hitherto existing.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 04/26/06
Administrative Action: 04/26/06

RECOMMENDATION: Approval 8-0 (Esseks, Carroll, Larson, Strand, Cornelius, Taylor, Krieser and Carlson voting 'yes'; Sunderman absent).

STAFF RECOMMENDATION: Approval

FINDINGS OF FACT:

1. This proposed text amendment to the Zoning Ordinance allows for the enlargement, extension or reconstruction of buildings and structures located upon a premises, the use of which constitutes a nonstandard use by special permit.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.1-2, concluding that a nonstandard use is a subset of the category, "nonconforming use". However, the ordinance has treated rebuilding these uses differently from one another. This change will treat otherwise similarly situated properties the same, and make enforcement of the zoning ordinance more consistent.
3. On April 26, 2006, this application appeared on the Planning Commission Consent Agenda and was opened for public hearing. No one came forward to speak.
4. On April 26, 2006, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval (Sunderman absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: May 1, 2006

REVIEWED BY: _____

DATE: May 1, 2006

REFERENCE NUMBER: FS\CC\2006\CZ.06019

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for April 26, 2006 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone #06019

PROPOSAL: Amend Lincoln Municipal Code Sections 27.61.090 and 27.63.280 to allow for the enlargement, extension, or reconstruction of buildings and structures located upon a premises the use of which constitutes a nonstandard use by special permit.

CONCLUSION: A nonstandard use is a subset of the category nonconforming use. However, the ordinance has treated rebuilding these uses different from one another. This change will treat otherwise similarly situated properties the same, and make enforcement of the zoning ordinance more consistent.

<u>RECOMMENDATION:</u>

Approval

ANALYSIS:

1. The term nonconforming use is commonly used in zoning ordinances to identify uses that, due to a change in the zoning ordinance or district boundaries, no longer comply with the list of allowed uses in that district.
2. Nonconforming uses are disfavored because they represent potential conflicts with surrounding uses, ranging from increased traffic, extended hours of operation, or noise, odor, and light pollution.
3. When a use becomes nonconforming, it is allowed to remain, but cannot be enlarged or expanded nor restored after damage by right, and if the nonconforming use is discontinued or abandoned for two years, the use is lost. Any future use of the property must then comply with the existing zoning regulations.
4. LMC §27.63.280 allows the reconstruction of a nonconforming use that allows the buildings to be placed back on their previous footprint, even if located beyond the currently required setbacks, by special permit.
5. In an effort to reduce the impact of being classified as nonconforming due to a zoning ordinance or district boundary change, Lincoln created a new classification called nonstandard use. Nonstandard use does not apply to the use of property, but rather to a lot or structure that does not comply with zoning regulations concerning lot area, density, width, setbacks, height, open space, or parking.
6. Nonstandard uses differ from nonconforming uses in that they may be rebuilt or expanded by right, as long as they comply with the currently required setbacks. However, there is no special permit provision that allows a nonstandard use to be rebuilt to its footprint if it is located beyond the currently required setbacks. This proposed change will include nonstandard uses in the special permit provision, allowing them to also be rebuilt to their footprint.

7. The proposed language revisions are attached.

Prepared by:

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Date: April 12, 2006

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CHANGE OF ZONE NO. 06019

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

April 26, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Taylor;
Sunderman absent.

The Consent Agenda consisted of the following items: ***CHANGE OF ZONE NO. 06019; USE PERMIT NO. 06004; COUNTY SPECIAL PERMIT NO. 06023; COUNTY SPECIAL PERMIT NO. 06024; SPECIAL PERMIT NO. 06025; SPECIAL PERMIT NO. 06026; SPECIAL PERMIT NO. 06027, Prairie Crossing Community Unit Plan; and COMPREHENSIVE PLAN CONFORMANCE NO. 06005.***

Ex Parte Communications: None.

Item No. 1.2, Use Permit No. 06004, and Item No. 1.3, County Special Permit No. 06023, were removed from the Consent Agenda and scheduled for separate public hearing.

Larson moved to approve the remaining Consent Agenda, seconded by Strand and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Taylor voting 'yes'; Sunderman absent.

Note: This is final action on Special Permit No. 06025, Special Permit No. 06026 and Special Permit No. 06027, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.